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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,511	12/20/2000	Peter Landrock	105005-0044C1	3110

24267 7590 06/22/2006

CESARI AND MCKENNA, LLP
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BOSTON, MA 02210

EXAMINER

RETTA, YEHDEGA

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/747,511

Applicant(s)

LANDROCK, PETER

Examiner

Yehdega Retta

Art Unit

3622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 60 and 61.
Claim(s) withdrawn from consideration: 1-59.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☒ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 5/9/06
13. ☐ Other: _____.


RETTA YEHDEGA
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that the cited Bolero publications were published long after applicant's priority dates and therefore, do not constitute prior art as a matter of law. Examiner would like to point out that the claimed invention was rejected based on the Bolero project not on the articles. Article I, "Electronic Data Exchange", indicates that the initial "Bill of Lading for Europe (BOLERO)" pilot project was funded in part by the European Union in the context of its Infosec Program. It also indicates that the pilot project started in April 1994 and the pilot involved 8 trading chains from Europe to the United States and Hong Kong, with a total of 26 pilot users and operated on a trial basis from July to September 1995. The second article indicates that the project started in 1992 (see page 87, 164). Applicant argued before that the Examiner has ignored the steps "in which the buyer splits the END electronically into two or more parts and then negotiates those parts separately to one or more further buyers" recited in claim 60. This feature is neither taught nor hinted at in BOLERO and dependent claim 61 further recites that, "each part is subjected to the digital signature of the document carrier hardware of the buyer which effects the splitting. Again, there is no hint or suggestion of these in the cited Article. The articles teach that the project replaced the negotiable bill of lading electronically by employing sophisticated electronic security measures (see article I page 22). Article II teaches that the Bolero Project provides a platform for secure exchange of electronic trade documentation through a central data application. The article further teaches the unique feature of the Bolero system being the ability to transfer rights from the holder of a bill of lading to a new holder thus replicates the functions of the traditional paper-based negotiable bill of lading. The article also teaches the use of digital signature affixed to messages sent to Bolero and Bolero forwards the message to intended recipient (see page 87). Applicant's disclosure indicates, that "so-called "splitting" of a purchased cheque" by purchasing cheque and splitting it into two by means of two digital signatures by the buyer, is well known (see page 12 last paragraph). Applicant also asserts that another important difference from the present invention is that Bolero requires a trusted third party to be involved (as a witness) in each separate transaction (to prevent double-spending). However, applicant's argument is related to feature that is not part of the claims.

Applicant asserts the claimed invention was introduced as a radical alternative to BOLERO (the security architecture of which was actually designed by present applicant). As indicated by Applicant, the security architecture of Bolero project was designed by Applicant. Thus since the project started before his priority date, and since Applicant was not the only participant in the project, and also since the claimed invention is an alternative approach to the BOLERO project, Applicant should submit the information as a prior art because the information is relevant to the claimed invention.

Applicant's Declaration have been considered and entered.